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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 847
OREGON MEDICAL BOARD

FILED

07/11/2023 4:24 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updating BLS and ACLS certification requirements for OMB licensees performing office-based surgery.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/24/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The rule is needed to clarify that OMB licensees performing office-based surgery must have an active Basic Life Support certification from the American Heart Association or equivalent CPR course that includes a practical skills evaluation. Second, the proposed rule is needed to clarify licensees performing Level II or Level III office-based surgeries must be certified in American Heart Association Advanced Cardiovascular Life Support or equivalent ACLS course that includes a practical skills evaluation. Third, the proposed rule is needed to update the list of Board-recognized accreditation agencies for Level II or Level III facilities. In 2022, the American Association for Accreditation of Ambulatory Surgical Facilities (AAAASF) completed an extensive rebranding effort and changed the organization's name from AAAASF to QUAD A. On July 31, 2020, the Institute for Medical Quality (IMQ) stopped providing accreditation services and the proposed rule removes this organization from the list along with the Oregon Medical Association who stopped providing accreditation services in 2013.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 677, https://www.oregonlegislature.gov/bills_laws/ors/ors677.html

American Heart Association Basic Life Support Course, <https://cpr.heart.org/en/courses/basic-life-support-course-options>

American Heart Association Advanced Cardiovascular Life Support (ACLS) Course,
<https://cpr.heart.org/en/courses/advanced-cardiovascular-life-support-course-options>

QUAD A, <https://www.quada.org/about-us>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

It is anticipated that these amendments will not impact any group of people differently than others. These changes are clarifying the requirements for BLS and ACLS certifications and updating the list of accreditation agencies for OMB

licensees performing office-based surgery. The proposed rule will not impact racial equity.

FISCAL AND ECONOMIC IMPACT:

The proposed rule amendment has no additional fiscal and economic impact. Board licensees performing office-based surgery already must hold a BLS and/or ACLS certification, the rule only clarifies the course must include a practical skills evaluation. Board licensees performing office-based surgery will have to ensure they hold BLS and/or ACLS certification that meets the requirements outlined in rule.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The rule amendment will have no additional economic impact on state agencies, units of local government, or the public. Board licensees performing office-based surgery will have to ensure they hold BLS and/or ACLS certification that meets the requirements outlined in rule, specifically that the course includes a practical skills evaluation. Under this rule OMB licensees already must hold a BLS and/or ACLS certification, the rule only clarifies the course must include a practical skills evaluation. (2) The rule amendment applies to individual licensees of the Oregon Medical Board; small businesses are not eligible for a Board license. (b) The rulemaking imposes no additional mandatory reporting, recordkeeping or other administrative requirements on small businesses. (c) The rulemaking imposes no additional requirements regarding equipment, supplies, labor or administration.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Members of the Board who were consulted in the development of the rule represent small businesses. The rule was reviewed by the Administrative Affairs Committee of the Board on June 14, 2023, as well as the full Board at its quarterly meeting on July 6, 2023.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The rule was reviewed by the Administrative Affairs Committee of the Board on June 14, 2023, as well as the full Board at its quarterly meeting on July 6, 2023. Board members represent the interests of persons and communities likely to be affected by a proposed rule. Overall, board members are licensees of the Oregon Medical Board or public members who represent Oregon patients.

RULES PROPOSED:

847-017-0003, 847-017-0010

AMEND: 847-017-0003

RULE SUMMARY: Inconsideration of the range of basic life support courses offered since the rule was adopted in 2013, the proposed rule clarifies the rule requires an active American Heart Association Basic Life Support certification or equivalent CPR course that includes a practical skills evaluation for licensees performing office-based surgeries. The proposed rule also clarifies licensees performing Level II or Level III office-based surgeries must be certified in American Heart Association Advanced Cardiovascular Life Support or equivalent ACLS course that includes a practical skills evaluation.

CHANGES TO RULE:

Classification of Office-Based Surgery ¶¶

Office-based surgeries are classified by complexity.¶¶

(1) Level I are minor surgical procedures performed without anesthesia or under topical, local, or minor conduction block anesthesia not involving drug-induced alteration of consciousness, other than minimal sedation utilizing preoperative oral anxiolytic medications.¶¶

(a) The licensee must pursue continuing medical education in the field for which the services are being provided and in the proper drug dosages, management of toxicity, and hypersensitivity to local anesthetic and other drugs.¶¶

(b) The licensee must maintain active ~~b~~American Heart Association Basic L~~ife s~~upport (BLS) certification or equivalent CPR course that includes a practical skills evaluation.¶¶

(2) Level II are minor or major surgical procedures performed under moderate sedation/analgesia, such as oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs.¶¶

(a) In addition to the requirements in section (1) of this rule, the licensee must:¶¶

(A) Maintain board certification or board eligibility in a specialty recognized by the American Board of Medical Specialties (ABMS), the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of Foot and Ankle Surgery (ABFAS) or the National Commission on Certification of Physician Assistants (NCCPA), or¶¶

(B) Obtain fifty hours each year of accredited continuing medical education (CME) relevant to the Level II surgical procedures to be performed in the office-based facility. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.¶¶

(b) The licensee must ~~be certified~~ maintain active American Heart Association a~~Advanced resuscitative techniques and~~Cardiovascular Life Support (ACLS) certification or equivalent ACLS course that includes a practical skills evaluation. The licensee must be on site at all times when patients are under the effects of anesthetic.¶¶

(c) The licensee administering anesthesia must evaluate and document the ASA Physical Status of the patient.¶¶

(d) The patient must be appropriately monitored as defined in 847-017-0005.¶¶

(3) Level III are major surgical procedures that require deep sedation/analgesia, general anesthesia, or regional blocks, and require support of vital bodily functions.¶¶

(a) In addition to the requirements in section (1) of this rule, the licensee must:¶¶

(A) Have staff privileges to perform the same procedure in a hospital or ambulatory surgical center, or¶¶

(B) Maintain board certification or board eligibility in an appropriate specialty recognized by the ABMS, the AOA-BOS, the ABPM, the ABFAS or the NCCPA.¶¶

(b) The licensee must ~~be certified~~ maintain active American Heart Association a~~Advanced resuscitative techniques and~~Cardiovascular Life Support (ACLS) certification or equivalent ACLS course that includes a practical skills evaluation. The licensee must be on site at all times when patients are under the effects of anesthetic.¶¶

(c) The licensee administering anesthesia must evaluate and document the ASA Physical Status of the patient.¶¶

(d) The patient must be appropriately monitored as defined in 847-017-0005.¶¶

(e) The licensee performing the procedure may not administer anesthesia other than additional local anesthesia and may not be primarily responsible for monitoring anesthesia during the procedure.¶¶

(4) Procedures or treatments involving the injection of a medication or substance for cosmetic purposes are the practice of medicine and must be performed as an office-based surgical procedure.¶¶

(5) Lipoplasty involving the removal of 500 cc or less volume of supernatant fat may be performed as a Level I surgical procedure. Office-based lipoplasty involving more than 500 cc volume of supernatant fat must be performed as a Level II or Level III surgical procedure.¶¶

(a) The performance of lipoplasty in an office-based setting may not result in the removal of more than 5% of total body weight or more than 4500 cc volume of supernatant fat removed, whichever is less.¶¶

(b) The licensee may not use more than 55 mg/kg of Lidocaine or 70 mcg/kg of epinephrine for tumescent anesthesia. The concentration of epinephrine in tumescent solutions may not exceed 1.5 mg/L.¶¶

(6) The following may not be performed in an office-based surgical facility:¶¶

(a) Procedures that may result in blood loss of more than 4% of the estimated blood volume in a patient with a normal hemoglobin;¶¶

(b) Procedures requiring intracranial, intrathoracic, or abdominal cavity entry;¶¶

(c) Joint replacement procedures; and¶¶

(d) Level II or Level III procedures on patients with an ASA Physical Status IV or higher.

Statutory/Other Authority: ORS 677.265

Statutes/Other Implemented: ORS 677.265

AMEND: 847-017-0010

RULE SUMMARY: The proposed rule updates the list of Board-recognized accreditation agencies for Level II or Level III facilities. In 2022, the American Association for Accreditation of Ambulatory Surgical Facilities (AAAASF) completed an extensive rebranding effort and changed the organization's name from AAAASF to QUAD A. On July 31, 2020, the Institute for Medical Quality (IMQ) stopped providing accreditation services and the proposed rule removes this organization from the list along with the Oregon Medical Association who stopped providing accreditation services in 2013.

CHANGES TO RULE:

847-017-0010

Licensee Use of Office-Based Surgical Facilities ¶¶

A licensee performing office-based surgery must ensure that the facility meets standards to ensure patient safety.¶¶

(1) Facilities where office-based surgeries are performed must comply with all federal and state laws and regulations that affect the practice.¶¶

(2) Facilities where Level II or Level III office-based surgeries are performed must be accredited by an appropriate, Board-recognized accreditation agency, including the ~~American Association for Accreditation of Ambulatory Surgical Facilities (AAAASF)~~, the ~~Accreditation Association of Ambulatory Health Care (AAAH)~~, the ~~Joint Commission~~, or the ~~Institute for Medical Quality (IMQ)~~. ~~Facilities accredited by the Oregon Medical Association (OMA) prior to January 1, 2013, will continue to be recognized as accredited facilities until the accreditation period expires.~~QUAD A, the Accreditation Association of Ambulatory Health Care (AAAH), or the Joint Commission. Licensees of the Board performing office-based procedures in a new or existing facility, must ensure that facility is accredited within one year of the start date of the office-based procedures being performed or the date these rules are adopted, whichever is later. During the period of time the facility is in the accreditation process, the facility will make changes to come into compliance with the Administrative Rules in this Division.¶¶

(3) Facilities where Level II or Level III office-based surgeries are performed must provide health care personnel who have appropriate education, training and licensure for administration and monitoring of moderate sedation/analgesia, deep sedation/analgesia, general anesthesia or regional block.¶¶

(4) A licensee who holds a MD or DO degree as well as a DDS (Doctor of Dental Surgery) or DMD (Doctor of Dental Medicine) degree and is an active member of the Oregon Society of Oral Maxillofacial Surgeons (OSOMS) may perform maxillofacial procedures in a facility approved by the OSOMS and function under the administrative rules of the Oregon Board of Dentistry, OAR chapter 818, division 026. For all procedures that are not oral maxillofacial in nature, licensees with medical and dental licenses must follow rules laid out in OAR chapter 847, division 017.

Statutory/Other Authority: ORS 677.265, ORS 679.255

Statutes/Other Implemented: ORS 677.060, ORS 677.265, ORS 679.255